

Notice of Allowability

Application No.

10/765,632

Examiner

Richard L. Leung

Applicant(s)

LUZAICH ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 02 May 2005.
2. ☒ The allowed claim(s) is/are 3-13, 15-21 and 23-25.
3. ☒ The drawings filed on 02 May 2005 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Samuel Lee on 23 June 2005. The examiner's amendment corrects informalities in the claims.

The application has been amended as follows:

Claim 4 (currently amended) The device of claim 24 wherein said open[[ed]] wine container comprises an opened wine bottle containing liquid wine and an air space there above.

Claim 8 (currently amended) The device of claim 24 wherein said housing further includes a transparent window for viewing said open[[ed]] wine container there through.

Claim 9 (currently amended) The device of claim 6 wherein said gas cartridge is attached to said ~~gas-pressure~~ regulator by a threaded safety barrel.

Claim 10 (currently amended) The device of claim 24 wherein said poppet valve assembly is mounted on guide pins that provide[[s]] for vertical movement of said poppet valve assembly thereon.

Claim 11 (currently amended) The device of claim 10 further comprising springs mounted axially about said guide pins to bias said poppet valve assembly in the direction of said open[[ed]] wine container.

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Claim 12 (currently amended) The device of claim 24 wherein said ~~gas-pressure~~ regulator comprises a counter-balanced spring, plenum and flow control needle.

Claim 15 (currently amended) The device of claim 24 further comprising poppet exhaust ports for facilitating the exhaust of air from within said open[[ed]] wine container as said heavier-than-air inert gas is introduced therein.

Claim 17 (currently amended) The device of claim 15 wherein said shuttle is spring biased such that as the heavier-than-air inert gas flow is interrupted and gas pressure is consequently eliminated from said poppet valve assembly, said shuttle is forced against said opening in said open[[ed]] wine container.

Claim 18 (currently amended) The device of claim 17 wherein said shuttle is provided with a gasket for substantially selectively sealing said opening in said open[[ed]] wine container.

Claim 20 (currently amended) The device of claim 24 wherein said device further comprises cooling means for controllably heating or cooling said open[[ed]] wine container.

Claim 23 (currently amended) The device of claim 25 wherein said open[[ed]] food container contains coffee.

Claim 24 (currently amended) A device for storage of an open wine container comprising a housing for receiving said open wine container in a substantially vertical orientation and for replacing air within the open wine container with a heavier-than-air inert gas, said device comprising a poppet valve assembly including a valve body for insertion within an opening in said open wine container and biased to enable said

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device to accommodate open wine containers of varying sizes, a pressurized source of heavier-than-air inert gas located within said housing, a regulator for reducing the pressure of said heavier-than-air inert gas from a first pressure at said pressurized source of heavier-than-air inert gas to a second pressure that passes through a low pass port within said poppet valve assembly, said poppet valve assembly further comprising ~~a valve body, a low pass port,~~ a spring-loaded check ball being spring biased to close said low pass port, a shuttle slidable within said valve body and orifice wherein said spring loaded check ball is biased to close said low pass port to facilitate increasing pressure within said low pass port until said pressure is sufficient to cause said shuttle to rise upwards within said valve body thus being displaced from said open wine container whereupon as said shuttle rises, air contained within said open wine container is freed to exit proximate the ~~bottle~~ open wine container top while increasing pressure in said low pass port unseats said check ball from blocking said low pass port within said shuttle for enabling the heavier-than-air inert gas to enter said open wine container displacing air that had been in said ~~bottle~~ open wine container and upon interrupting the flow of said heavier-than-air inert gas, forcing said shuttle by spring bias against said open wine container sealing said open wine container to substantially prevent said heavier-than-air inert gas from escaping therefrom.

Claim 25 (currently amended) A device for storage of an open food container comprising a housing for receiving said open food container in a substantially vertical orientation and for replacing air within the open food container with a heavier-than-air inert gas, said device comprising a poppet valve assembly including a valve body for

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insertion within an opening in said open food container and biased to enable said device to accommodate open food containers of varying sizes, a pressurized source of heavier-than-air inert gas located within said housing, a regulator for reducing the pressure of said heavier-than-air inert gas from a first pressure at said pressurized source of heavier-than-air inert gas to a second pressure that passes through a low pass port within said poppet valve assembly, said poppet valve assembly further comprising ~~a valve body, a low pass port,~~ a spring-loaded check ball being spring biased to close said low pass port, a shuttle slidable within said valve body and orifice wherein said spring loaded check ball is biased to close said low pass port to facilitate increasing pressure within said low pass port until said pressure is sufficient to cause said shuttle to rise upwards within said valve body thus being displaced from said open food container whereupon as said shuttle rises, air contained within said open food container is freed to exit proximate the open food container top while increasing pressure in said low pass port unseats said check ball from blocking said low pass port within said shuttle for enabling the heavier-than-air inert gas to enter said open food container displacing air that had been in said open food container and upon interrupting the flow of said heavier-than-air inert gas, forcing said shuttle by spring bias against said open food container sealing said open food container to substantially prevent said heavier-than-air inert gas from escaping therefrom.

The claims have been renumbered as follows:

Claim 3 has been renumbered 5.

Claim 4 has been renumbered 2.

Claim 5 has been renumbered 6.

Claim 6 has been renumbered 7.

Claim 7 has been renumbered 9.

Claim 8 has been renumbered 10.

Claim 9 has been renumbered 8.

Claims 10-13 have been renumbered 11-14, respectively.

Claim 20 has been renumbered 3.

Claim 21 has been renumbered 4.

Claim 23 has been renumbered 21.

Claim 24 has been renumbered 1.

Claim 25 has been renumbered 20.

2. The following is an examiner's statement of reasons for allowance: Applicants' amendment to the claims and remarks, filed 02 May 2005, have persuasively overcome the rejections set forth in the previous Office Action. While a number of devices relating to the preservation of wine and food that utilize an inert gas are already well known in the art (see references cited previously), none of the prior art references either alone or in an obvious combination demonstrate all the limitations set forth by the independent claims. Specifically, a search of the prior art did not reveal any clear teaching of the poppet valve assembly as recited by the claims. Accordingly, the claims are considered allowable.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard L. Leung whose telephone number is 571-272-4811. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Richard L. Leung
Examiner
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CHERYL TYLER
SUPERVISORY PATENT EXAMINER

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